

**NATIONAL ASSOCIATION OF ATTORNEYS GENERAL (NAAG)
 NATIONAL ATTORNEY GENERALS' TRAINING INSTITUTE (NAGTRI)
 STATES' ASSOCIATION OF BANKRUPTCY ATTORNEYS (SABA)
 BANKRUPTCY AND COLLECTIONS
 FROM A GOVERNMENT PERSPECTIVE SEMINAR
 AUSTIN, TX – OCT. 23-27, 2011**



TENTATIVE AGENDA

SUNDAY, OCTOBER 23, 2011

12:00 p.m. to 5:00 p.m. **Registration**

2:00 to 5:00 p.m. **Breakouts**

<p>Bankruptcy 001 – A Quick Tour of the Basics</p> <p><i>Tracy Essig, AZ</i> Concepts and terminology of bankruptcy and collection issues for bankruptcy novices of all kinds; a short intro to the overall seminar</p>	<p>Advanced Session – Bankruptcy Alternatives</p> <p><i>John Adams, TX OAG</i> <i>Greg Milligan, Harney Partners (invited)</i> <i>Former Judge Melanie Cyganowski, BankruptcyEDNY</i> <i>Peter Roth, NH OAG, Moderator</i></p> <p>Use of receiverships and other procedural mechanisms as ways to control companies outside of bankruptcy.</p>
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6:00 p.m. to 8:00 p.m. **Reception – Hotel**

MONDAY, OCTOBER 24, 2011

7:30 a.m. to 9:00 a.m. **Registration**, breakfast (included in registration)

8:30 a.m. to 8:45 a.m. **Conference Opening:** Welcome SABA/NAAG

8:45 a.m. to 9:00 a.m. **Opening Remarks** - TX AG

9:00 a.m. to 10:30 a.m. **Breakouts**

<p>Introduction to Bankruptcy <i>Hal Morris, TX OAG</i> <i>Patricia Molteni, NAAG</i></p> <p>Types of Petitions; eligibility to file; involuntary Conversion & dismissal Parties in the case – trustees, creditors, committees Claims – what, when, and where to file</p>	<p>Nuts and Bolts – Current Litigation Issues <i>Jay Befort, AUST, KS</i> <i>Lynn Butler, Brown, McCarroll, LLP</i> <i>Sam Maizel, Pachulski, Stang, Ziehl & Jones, LLP</i></p> <p>Claims issues – a dialogue between government and debtor’s counsel about filing issues, including what documentation do you need; amending claims, dealing with objections Involuntary cases – the good, bad, and ugly of filing such a petition</p>
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10:30 a.m to 10:45 a.m. **Break**

10:45 a.m. to 12:30 p.m. **Breakouts – Stay, Priority, and Discharge Issues**

<p>Regulators – Introductory <i>Jonathan Alden, FL DEP</i> <i>Maureen Leary, NY OAG</i></p> <p>Regulators Beginning – Stay, Priority, and Discharge Issues</p> <p>Section 362(b)(1),(3),(4), etc. Section 105 Section 507 - Administrative expenses; non-tax priorities Section 523 – Discharge exceptions and procedures</p>	<p>Regulators Advanced – Round Table Discussion of Hot Topics <i>Esther Chavez, TX OAG</i> <i>Margarita Padilla, CA OAG</i> <i>Nancy Hershey Lord, NY OAG</i> <i>Karen Cordry, NAAG</i></p> <p>Jurisdictional planning for where your issues will be heard Other topics TBD</p>	<p>Tax Breakout <i>Bruce Emard, Kronick Moskovitz Tiedmann & Girard,</i> <i>Jim Jacobsen, NM OAG</i> <i>Stephanie Page, USDOJ</i></p> <p>Section 362(b)(9) Section 507(a)(2), (8) Section 523(a)(1) Relationship of priority and discharge provisions Specific chapter provisions</p>
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12:30 p.m. to 1:45 p.m. **Lunch on your own**

1:45 p.m. to 3:30 p.m. **Anticipating Bankruptcy – Preparing in Advance**

Marc Lippincott, TX attorney
Ryan Larson, TX OAG
Others TBD
Moderator: *Peter Roth, NH OAG*

- a. Pre-judgment attachment
- b. Investigating the Debtor’s Ability to Pay
- c. Bankruptcy-Proofing Settlements, Judgments, Administrative Orders, etc.
- d. Securing the Settlement (letters of credit, bonds, security interests, guaranty)

3:30 p.m. to 3:45 p.m. **Break**

3:45 p.m. to 5:00 p.m. **Enforcing Your Judgments/Settlements Outside Bankruptcy - Part I**

Andrew Swain, IN OAG
Others TBD
Moderator: *Tracy Essig, AZ*

- a. Recording, domesticating judgments
- b. Execution, garnishment

5:00 p.m. **Session Ends**

TUESDAY, OCTOBER 25, 2011

8:00 a.m. to 9:00 a.m. **Breakfast** (Included in registration)

9:00 am to 10:45 a.m. **Breakouts**

Enforcing Your Judgments/Settlements Outside Bankruptcy - Part II

Sam Maizel, Pachulski, Stang, Ziehl & Jones

Stephen Nagle, NY OAG

Moderator: Trish Lazich, OH OAG

- c. Other collection methods –
 - i. setoff and recoupment
 - ii. debarment
 - iii. contempt
- d. Roundtable: what are states doing now?

10:45 a.m. to 11:00 a.m. **Break**

11:00 a.m. to 12:15 p.m.

<p>Enforcing Your Judgments/Settlements – Part III <i>Kathy Bazoian Phelps, Danning, Gill, Diamond & Kollitz, LLP</i> <i>Alan Kornberg, Paul, Weiss</i> <i>Former Judge Melanie Cyganowski, Bankruptcy EDNY</i></p> <p>Bringing in Other Defendants – alter ego, piercing the corporate veil, suing officers, substantive consolidation in bankruptcy; going after 3rd parties; <i>in pari delicto</i> defenses.</p>	<p>Local/Municipal Creditors; Secured Claims, Part I <i>Beth Weller, Linebarger Goggan Blair & Sampson, L.L.P.</i> <i>Esther Tryban Telser, City of Chicago, IL</i> <i>Wendy Brickell, City of Columbus, OH</i> <i>Martha Romero, Romero Law Firm</i></p> <p>Topics of particular interest to local and municipal creditors; treatment of secured claims, <i>ad valorem</i> and otherwise.</p>
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12:15 p.m. to 1:30 p.m. **Lunch on your own**

1:30 p.m. to 3:00 p.m. **Breakouts – Chapter 11 – Operations During the Case**

<p>Beginners Session – <i>Lynn H. Butler, Brown, McCarroll, LLP</i> <i>Jonathan Alden, Senior Asst. General Counsel</i> <i>FL Dept. of Env. Quality</i></p> <p>“First day orders,” property of the estate issues, executory contracts, Section 363 sales, and other issues arising during the case prior to confirmation</p>	<p>Advanced – Hot Topic Chapter 11 Issues with a U.S. Trustee Perspective <i>Ramona Elliott, UST General Counsel</i> <i>Brady Williamson, Godfrey and Kahn</i> <i>Judge Craig Gargotta, Bankruptcy WD TX</i> <i>Moderator: Nancy Hershey Lord, NY OAG</i></p> <p>Appointment of creditors’ committees and whether they work or not; UST’s role in monitoring and kicking cases along – statutory role in small cases, discretionary role in large cases (filing exclusivity motions, motions to convert or dismiss, asking for examiners or trustees.); substantive consolidation, fee examiners and related issues</p>
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3:00 pm. to 3:15 p.m. **Break**

3:15 p.m. to 5:00 p.m. **Breakouts – Chapter 11 – Confirming Plans and Beyond**

<p>Beginner Session <i>Fred Rudzik, FL OAG</i> <i>Nick Lamberti, PA Rev. Dept.</i></p> <p>Introduction to these issues, including disclosure statements and objections thereto, plan structure – classification of claims, priorities, etc., what is needed to confirm a plan, what to object to and what happens if you don't object; enforcing plans and post-confirmation jurisdiction, serial filings.</p>	<p>Advanced Session - Hot Topics <i>Judge Robert Gerber, Bankruptcy, SDNY</i> <i>Judge Barbara Houser – Bankruptcy, ND TX (invited)</i> <i>Judge D. Michael Lynn – Bankruptcy, ND TX (invited)</i> <i>Mark Browning, Moderator, TX OAG</i></p> <ol style="list-style-type: none"> 1. Sales vs. Reorganizations 2. Individual Chapter 11s quirks 3. Plan terms to look out for 4. Monitoring and enforcing plan provisions post-confirmation; post-confirmation jurisdiction 5. Others TBD
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5:00 p.m. **Session Ends**

7:00 p.m. **Optional Activity**

WEDNESDAY, OCTOBER 26, 2011

8:00 a.m. to 8:45 a.m. **Breakfast** (Included in registration)

8:45 a.m. to 9:00 a.m. **SABA Business** – Election of Board; report to membership

9:00 a.m. to 10:00 a.m. **Rewriting the Code: “Gift” Plans; “Structured” Dismissals and Conversion: Preserving Statutory Priorities Against “Creative” Drafting**
Mark Browning, TX OAG
Jim Newbold, IL OAG

10:00 a.m. to 10:15 a.m. **Break**

10:15 a.m. to 12:00 p.m. **The Supreme Court Takes On Bankruptcy: Clarity and Confusion**
Judge Eugene Wedoff
Professor Mark Scarberry, Pepperdine
Karen Cordry, Moderator, NAAG

6 years after BAPCPA, the Supreme Court has begun to settle the contours of consumer bankruptcy, but other cases have raised new issues and concerns. This discussion will highlight those decisions.

- a. Chapter 7 and 13 means testing and disposable income
- b. Exemptions; abandoning property
- c. Conversion and dismissal limits
- d. Binding effects of plans
 - i. ambiguous plans
 - ii. notice and service issues.
 - iii. form plans; Rules drafting efforts
- e. Bankruptcy Court jurisdiction after *Marshall*

12:00 p.m. to 1:15 p.m. **Lunch – Keynote Address**
Speaker TBA
The Consumer Financial Protection Bureau – What it is, What it Does
How do its efforts dovetail with bankruptcy and state consumer protection activities; how do they envision working with Attorney General

1:15 p.m. to 2:15 p.m. **Section 525 – Overview and Practical Considerations**
Stuart Phillips, TX OAG

2:15 p.m. to 3:30 p.m.

Ethics and Other Practical Problems

Zack Mosner, WA OAG, Moderator

Judge Jeff Bohm, Bankruptcy, SDTX (invited)

Tom Watkins, Brown, McCarroll (invited)

A variety of practical topics with ethical dimensions that government practitioners face during the case

3:30 p.m. to 3:45 p.m.

Break

3:45 p.m. to 5:00 p.m.

Avoidance Actions Breakouts

<p>Beginner <i>Casey Roy, TX OAG</i></p> <p>Preference Actions Fraudulent Transfers Unauthorized postpetition transfers Remedies and defenses</p>	<p>Advanced <i>Jim Jacobsen, NM OAG</i> <i>Zack Mosner, WA OAG</i></p> <p>Ponzi scheme remedy issues, payments for the benefit of the debtor; sovereign immunity issues as to Section 544 actions, etc.</p>
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THURSDAY, OCTOBER 27, 2011

8:00 a.m. to 8:45 a.m.

Breakfast

8:45 a.m. to 9:30 a.m.

Chapter 9 Issues

Mark Silverschotz, Reed Smith

Esther Tryban Telser, City of Chicago

Moderator, Lynn Butler, Brown, McCarroll

9:30 a.m. to 10:30 a.m.

Breakouts

<p>Beginners Session Introduction to Chapter 13</p> <p><i>Deborah Langehennig – Ch. 13 Trustee, TX</i> <i>Others TBA</i> <i>Moderator: Trish Lazich, OH OAG</i></p> <p>Explanation of the nuts and bolts of Chapter 13 cases after BAPCPA for bankruptcy novices.</p>	<p>Advanced Sessions <i>Judge Christopher Mott, Bankruptcy, WD TX</i> <i>Jan Hamilton, Ch.13 Trustee, KS (invited)</i> <i>Manny Lucero, USDOJ</i> <i>Moderator, Fred Rudzik, FL DOR</i></p> <p>Strategic considerations for governments in Chapter 13 cases, property of the estate issues – how the differing tests affects your enforcement actions, trustee liability issues – taxes, regulatory compliance, dealing with problematic business operations</p>	<p>Environmental Issues, Part I Judge’s Panel - Hot Topics</p> <p><i>Judge Robert Gerber, Bankr. SDNY</i> <i>Judge Richard Schmidt, Bankr. SDTX</i> <i>Moderator: Maureen Leary, NY OAG</i></p> <p>Claims Objections and Estimation 363 Sales and Ongoing Liability Rule 9019 Settlement Approvals Plan Provisions to Look out For Jurisdiction, Withdrawal of the Reference; Do’s and Don’t for Government Counsel</p>
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10:30 a.m. to 10:45 a.m.

Break

10:45 a.m. to 12:45 p.m.

Breakouts

<p>Tax Issues – A Potpourri of Current Issues <i>Jim Newbold, IL OAG</i> <i>Allen Rosenberg, MA DOR</i> <i>Stephanie Page, USDOJ</i> <i>Andrew Swain, IN OAG</i></p> <p>Section 346 issues – cancellation of debt and other topics Practical tips for applying the willful evasion/fraud discharge exceptions When does the “estate” incur a tax – Chapter 12 and beyond; discussion of <i>In re Hall</i> – cert. granted by Supreme Court Online Travel Companies tax litigation update</p>	<p>Environmental Issues, Part II and III <i>Maureen Leary, NY OAG</i> <i>Kevin Lyskowski, US DOJ</i> <i>Andrea Madigan, US EPA</i> <i>Margarita Padilla, CA OAG</i> <i>Alan Tenenbaum, US DOJ</i></p> <p>II. Identifying and Addressing Environmental Issues</p> <ol style="list-style-type: none"> 1. Choosing Your Battles 2. Claims versus Equitable Remedies 3. Administrative claims for remediation expenses <p>III. Getting the Issues Resolved</p> <ol style="list-style-type: none"> 1. Protective plan and confirmation order language 2. Reviewing asset sale order provisions 3. Settling the Debtor’s liabilities and mechanism for completing clean-ups.
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12:45

Seminar Ends